

STATE OF OREGON

COUNTY OF MULTNOMAH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BAILEY NURSERIES INC.  
SAUVIE ISLAND DIVISION  
18616 NW REEDER RD  
PORTLAND, OR 97231

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16039

SOURCE OF WATER: WELL 1 AND WELL 2 IN MUD SLOUGH BASIN

PURPOSE OR USE: NURSERY USE ON 855.4 ACRES

MAXIMUM RATE: 6.684 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JUNE 26, 2003

WELL LOCATION:

WELL 1: NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 15, T2N, R1W, W.M.; 500 FEET SOUTH & 900 FEET EAST FROM NW CORNER, SECTION 15

WELL 2: SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 15, T2N, R1W, W.M.; 1850 FEET SOUTH & 800 FEET WEST FROM NE CORNER, SECTION 15

The amount of water used for nursery use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to one fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  (GOVT LOT: 1) 14.8 ACRES  
SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  (GOVT LOT: 2) 20.2 ACRES

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NE ¼ SW ¼ (GOVT LOT: 5)	40.0 ACRES
NW ¼ SW ¼ (GOVT LOT: 4)	0.6 ACRE
SW ¼ SW ¼ (GOVT LOT: 7)	21.3 ACRES
SE ¼ SW ¼	40.0 ACRES
NW ¼ SE ¼ (GOVT LOT: 6)	31.2 ACRES
SW ¼ SE ¼	40.0 ACRES
SE ¼ SE ¼	40.0 ACRES

## SECTION 10

SW ¼ SW ¼	32.0 ACRES
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## SECTION 11

NW ¼ NW ¼	39.4 ACRES
SW ¼ NW ¼	40.0 ACRES
NE ¼ SW ¼	2.4 ACRES
NW ¼ SW ¼	40.0 ACRES
SW ¼ SW ¼	36.4 ACRES
SE ¼ SW ¼	31.0 ACRES
SW ¼ SE ¼	18.6 ACRES

## SECTION 14

NE ¼ NE ¼	40.0 ACRES
NW ¼ NE ¼	40.0 ACRES
SW ¼ NE ¼	40.0 ACRES
SE ¼ NE ¼	40.0 ACRES
NE ¼ NW ¼	39.9 ACRES
NW ¼ NW ¼	13.0 ACRES
SE ¼ NW ¼	22.3 ACRES
NE ¼ SW ¼	19.9 ACRES
SE ¼ SW ¼	0.8 ACRE
NE ¼ SE ¼	27.0 ACRES
NW ¼ SE ¼	17.0 ACRES
SE ¼ SE ¼	2.4 ACRES

## SECTION 15

NW ¼ NE ¼	9.0 ACRES
NE ¼ NW ¼	39.4 ACRES
NW ¼ NW ¼	10.8 ACRES
SE ¼ NW ¼	6.0 ACRES

## SECTION 23

TOWNSHIP 2 NORTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained consistent with those standards identified in OAR 690-507-645(1) through (3). The permittee shall maintain the meter in good working order, shall keep a complete record of the amount

of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

#### STANDARD CONDITIONS

If the number, location, or construction of any well deviates from that proposed in the permit application or permit conditions, the conclusions of the Proposed Final Order and Final Order under which this permit was granted may be revised, conditions may be appropriately revised, or this permit may not be valid.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.


The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Complete application of the water to the use shall be made on or before October 1, 2008. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued May 20, 2004

  
Paul E. Cleary, Director  
Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.